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January 19, 2023

FILED VIA ECF

Honorable Paul A. Crotty
United States District Court
500 Pearl Street
New York, NY 10007

Re: In re: Energetic Tank, Inc.
S.D.N.Y. 1:18-cv-01359 (PAC)

Dear Judge Crotty:

We represent Petitioner Energetic Tank Inc. in this matter. We write in response to the January 11, 2023, letter to the Court from Hofmann & Schweitzer concerning the citizenship of its clients for purposes of assessing diversity jurisdiction in this matter.

By way of background, the Court will recall that at the hearing on January 9, 2023, in connection with oral argument on the pending motion relating to whether the injury and/or death claims should be subject to jury trials, the Court asked counsel about the citizenship of their respective clients. This, of course, is relevant to the question whether diversity jurisdiction exists, a point the claimants contend is a lynchpin to their application for jury trials in this matter. We confirmed on the record that the Petitioner is a foreign (Liberian) corporation. It has no place of business in the United States and thus has a foreign domicile for purposes of assessing diversity. Counsel for the claimants, on the other hand, were less than unequivocal about the domicile of their respective clients. And, indeed, in his January 11 letter, Mr. Hofmann represented to the Court that he needed to confer with his clients to determine the accuracy of a statement he had made on the record about his clients' citizenship. That issue remains to be clarified by counsel.

In fact, upon review of the claims filed in this matter, at least four claimants – Haruka Ramdhun (Dkt No. 13), Cheysserr Luangco (Dkt No. 14), Xiomaro Cuevas Soto (Dkt. No. 27), and Ayaka Joseph (Dkt. No. 84) – all of whom are spouses of service members who were aboard the USS JOHN S MCCAIN and who are asserting their own claims in this matter, allege that they were residing in Japan at the time of the collision and, it appears, at the time this action was filed and also at the time the claimants' claims were filed. If this is correct, then this fact arguably destroys "complete diversity" in this matter irrespective of where any other claimant may have been domiciled at any of those times.

In the circumstances, if the Court considers that the existence *vel non* of diversity jurisdiction is relevant for determination of the pending jury trial motions, the Petitioner respectfully submits that the claimants should be directed to submit sworn evidence attesting to

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the facts that they contend support a finding of complete diversity in this matter. Once that evidence has been submitted, the parties should be given the right to supplement their briefing on this issue as may be appropriate.

We thank the Court for its attention to this matter.

Respectfully submitted,

/s/ Thomas H. Belknap, Jr.

Thomas H. Belknap, Jr.

Cc: All counsel (via ECF)